

But, no, that is not how it works for us. And that is a two-tiered justice system.

The reason why I bring this up is the way that I have been treated—mistreated really—since I came here as a freshman Member of Congress—and I want to remind everyone that I have never been arrested. I have always paid my taxes. I have not broken the law. I have done nothing wrong. It is the majority party that doesn't like my speech. That is it.

So I have been kicked off committees. I have been routinely attacked. I have been lied about. My character has been completely destroyed, not only by people in here but the media definitely helps them. I have so many death threats that I have had to pay for my own personal security. Now the Department of Justice will not prosecute someone when they are caught committing a crime against me, against my gender, and my religion. They have been attacking me over and over and over again.

Do you know something, Madam Speaker?

The way this place treats me is exactly the way conservatives, Republican voters, and many Americans feel treated. They feel mistreated because this place only cares about itself. This place cares about what happens here and is so disconnected to farmers who are about to go out of business, mothers who can't find baby formula, and women who can't find feminine products.

All those border towns have been overrun, overrun, and overrun. They try to help the people so much. They can't even help anymore. The crime is increasing. We are sending billions and billions of dollars over for a proxy war with Russia and some other country to protect their borders, but we won't protect our own. The American people feel mistreated, the same way I feel mistreated.

It is completely wrong. It needs to change.

You see, Madam Speaker, this is a place where we should all be working together. It shouldn't be hard for Democrats and Republicans to come up with a budget that serves our country. It shouldn't be hard for us to work together to fund a Department of Justice that prosecutes crimes in America and crimes against Members of Congress. That should be something we care about.

This shouldn't be complicated; but somehow it is complicated, and it is all complicated because of the disgusting industry called politics. And that needs to change.

We are going to hit a point one day where the American people are so sick of us, are sick of Congress, and are sick of what happens here. We are going to hit a point one day where the American people will not only be sick of us, but they just won't trust us anymore.

And do you want to know something, Madam Speaker?

Madam Speaker, I don't blame them one single bit.

Madam Speaker, I yield back the balance of my time.

NDO FAIRNESS ACT

Mr. CICILLINE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 7072) to amend title 18, United States Code, to modify delayed notice requirements, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 7072

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "NDO Fairness Act".

SEC. 2. DELAY OF NOTIFICATION.

Section 2705(a) of title 18, United States Code, is amended to read as follows:

"(a) DELAY OF NOTIFICATION.—

"(1) APPLICATION.—A governmental entity that is seeking a warrant, order, or subpoena under section 2703 may include in the application (or motion in the case of an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena) a request to a court of competent jurisdiction for an order delaying the notification under section 2703 for a period of not more than 60 days.

"(2) DETERMINATION.—The court may not grant a request for delayed notification to a customer or subscriber made under paragraph (1), or an extension of such delayed notification requested by the governmental entity pursuant to paragraph (3), unless the court issues a written determination, based on specific and articulable facts, and including written findings of fact and conclusions of law, that it is substantially likely that the notification of the customer or subscriber of the existence of the warrant, order, or subpoena will result in—

"(A) endangering the life or physical safety of an individual;

"(B) flight from prosecution;

"(C) destruction of or tampering with evidence;

"(D) intimidation of potential witnesses; or

"(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"(3) EXTENSION.—The governmental entity may request one or more extensions of the delay of notification granted under paragraph (2) for a period of not more than 60 days for each such extension. The court may only grant such an extension if the court makes a written determination required under paragraph (2) and the extension is in accordance with the requirements of such paragraph.

"(4) EXPIRATION OF DELAY OF NOTIFICATION.—Upon expiration of the period of delay of notification and all extensions thereof under paragraphs (2) and (3) of this subsection, the governmental entity shall deliver to the customer or subscriber by at least 2 methods, which shall be personal service, registered or first-class mail, electronic mail, or other means approved by the court, as reasonably calculated to reach the customer or subscriber within 72 hours of the expiration of the delay—

"(A) a copy of the warrant, order, or subpoena; and

"(B) notice that informs such customer or subscriber—

"(i) of the nature of the inquiry made by the governmental entity, with reasonable specificity;

"(ii) that information maintained for such customer or subscriber by the provider of electronic communications service or remote computing service to which the warrant, order, or subpoena under section 2703 was directed, was supplied to or requested by the governmental entity;

"(iii) that notification of such customer or subscriber was delayed by court order;

"(iv) the identity of the court that issued such order;

"(v) the provision of law under which the order delaying notification was authorized; and

"(vi) that the governmental entity will, upon request by the customer or subscriber made within 180 days after receiving notification under this paragraph, provide the customer or subscriber with a copy of the information that was disclosed in response to the warrant, order, or subpoena, or in the event that no information was disclosed, a written certification that no information was disclosed.

"(5) COPY OF INFORMATION DISCLOSED.—Upon expiration of the period of delay of notification under paragraph (2) or (3) of this subsection, and at the request of the customer or subscriber made within 180 days of receiving notification under paragraph (4), the governmental entity shall promptly provide the customer or subscriber—

"(A) with a description of the information disclosed and a copy of the information that was disclosed in response to the warrant, order, or subpoena; or

"(B) in the event that no information was disclosed, with a written certification that no information was disclosed."

SEC. 3. PRECLUSION OF NOTICE.

Section 2705(b) of title 18, United States Code, is amended to read as follows:

"(b) PRECLUSION OF NOTICE.—

"(1) APPLICATION.—A governmental entity that is seeking a warrant, order, or subpoena under section 2703, when it is not required to notify the customer or subscriber, or to the extent that it may delay such notice pursuant to subsection (a), may apply to a court for an order, subject to paragraph (6), directing a provider of electronic communications service or remote computing service to which a warrant, order, or subpoena under section 2703 is directed not to notify any other person of the existence of the warrant, order, or subpoena for a period of not more than either 60 days or the period of delay of notice provided under subsection (a), if any.

"(2) DETERMINATION.—The court may not grant a request for an order made under paragraph (1), or an extension of such order requested by the governmental entity pursuant to paragraph (3), unless—

"(A) the court issues a written determination, based on specific and articulable facts, and including written findings of fact and conclusions of law, that it is substantially likely that not granting the request will result in—

"(i) endangering the life or physical safety of an individual;

"(ii) flight from prosecution;

"(iii) destruction of or tampering with evidence;

"(iv) intimidation of potential witnesses; or

"(v) otherwise seriously jeopardizing an investigation or unduly delaying a trial; and

"(B) the order is narrowly tailored and there is no less restrictive alternative, including notification to an individual or organization within or providing legal representation to the customer or subscriber, to avoid an adverse result as described in clause (i) through (v) of subparagraph (A).

“(3) EXTENSION.—A governmental entity may request one or more extensions of an order granted under paragraph (2) of not more than 60 days for each such extension. The court may only grant such an extension if the court makes a written determination required under paragraph (2)(A) and the extension is in accordance with the requirements of (2)(B).

“(4) NOTIFICATION OF CHANGED CIRCUMSTANCES.—If the need for the order issued under paragraph (2) changes materially, the governmental entity that requested the order shall notify the court within 72 hours of the changed circumstances, and the court shall reassess the order and modify or vacate as appropriate.

“(5) OPPORTUNITY TO BE HEARD.—

“(A) IN GENERAL.—Upon an application, petition, or motion by a provider of electronic communications service or remote computing service or person acting on behalf of the provider to which an order under paragraph (2) (or an extension under paragraph (3)) has been issued, the court may modify or vacate the order if—

“(i) the order does not meet requirements provided in paragraph (2); or

“(ii) compliance with the order is unreasonable or otherwise unlawful.

“(B) STAY OF DISCLOSURE OF CUSTOMER OR SUBSCRIBER COMMUNICATIONS OR RECORDS.—A provider's obligation to disclose the information requested in the warrant, order, or subpoena to which the order in paragraph (1) applies is stayed upon the filing of the application, petition, or motion under this paragraph pending resolution of the application, petition, or motion, unless the court with jurisdiction over the challenge determines based on a showing by the governmental entity that the stay should be lifted in whole or in part prior to resolution.

“(C) FINALITY OF ORDER.—The decision of the court resolving an application, petition, or motion under this paragraph shall constitute a final, appealable order.

“(6) EXCEPTION.—A provider of electronic communications service or remote computing service to which an order under paragraph (2) applies, or an officer, employee, or agent thereof, may disclose information otherwise subject to any applicable nondisclosure requirement to—

“(A) those persons to whom disclosure is necessary in order to comply with the warrant, order, or subpoena;

“(B) an attorney in order to obtain legal advice or assistance regarding the warrant, order, or subpoena; and

“(C) any person the court determines can be notified of the warrant, order, or subpoena.

“(7) SCOPE OF NONDISCLOSURE.—Any person to whom disclosure is made under paragraph (6) (other than the governmental entity) shall be subject to the nondisclosure requirements applicable to the person to whom the order is issued. Any recipient authorized under this subsection to disclose to a person information otherwise subject to a nondisclosure requirement shall notify the person of the applicable nondisclosure requirement.

“(8) SUPPORTING DOCUMENTATION.—Upon serving a provider of electronic communications service or remote computing service with an order granted under paragraph (2), or an extension of such order granted under paragraph (3), the governmental entity shall include a copy of the warrant, order, or subpoena to which the nondisclosure order applies.

“(9) EXPIRATION OF ORDER PRECLUDING NOTICE.—Upon expiration of an order issued under paragraph (2) or, if an extension has been granted under paragraph (3), expiration of the extension, the governmental entity

shall deliver to the customer or subscriber, by at least 2 methods, which shall be personal service, registered or first-class mail, electronic mail, or other means approved by the court as reasonably calculated to reach the customer or subscriber within 72 hours of the expiration of the order—

“(A) a copy of the warrant, order, or subpoena; and

“(B) notice that informs the customer or subscriber—

“(i) of the nature of the law enforcement inquiry with reasonable specificity;

“(ii) that information maintained for such customer or subscriber by the provider of electronic communications service or remote computing service to which the warrant, order, or subpoena under section 2703, was directed was supplied to or requested by the government entity;

“(iii) that notification of such customer or subscriber was precluded by court order;

“(iv) of the identity of the court authorizing the preclusion of notice;

“(v) of the provision of this chapter under which the preclusion of notice was authorized; and

“(vi) that the government will, upon request by the customer or subscriber made within 180 days after receiving notification under this paragraph, provide the customer or subscriber with a copy of the information that was disclosed in response to the warrant, order or subpoena, or in the event that no information was disclosed, a written certification that no information was disclosed.

“(10) COPY OF INFORMATION DISCLOSED.—Upon expiration of the order precluding notice issued under paragraph (2) or (3) of this subsection, and at the request of the customer or subscriber made within 180 days of receiving notification under paragraph (9), the governmental entity shall promptly provide the customer or subscriber—

“(A) with a copy of the information that was disclosed in response to the warrant, order or subpoena; or

“(B) in the event that no information was disclosed, a written certification that no information was disclosed.”

SEC. 4. ADDITIONAL PROVISIONS REGARDING DELAYED NOTICE.

Section 2705 of title 18, United States Code, is amended by adding at the end the following:

“(c) ANNUAL REPORT.—On an annual basis, the Attorney General shall provide to the Committees on the Judiciary of the House of Representatives and the Senate, in a manner consistent with protection of national security, a report setting forth with respect to the preceding calendar year, for each Federal judicial district—

“(1) the number of customers or subscribers with respect to whom, in that calendar year, a warrant, subpoena, or court order was issued pursuant to section 2703;

“(2) the aggregate number of applications requesting delay of notification pursuant to subsections (a)(1) and (b)(1);

“(3) the aggregate number of orders under this section either granting, extending, or denying a request for delay of notification;

“(4) the aggregate number of orders under this section affecting a member of the news media, including any conduct related to activities protected under the First Amendment; and

“(5) the aggregate number of arrests, trials, and convictions, resulting from investigations in which orders under this section were obtained, including the offenses for which individuals were arrested, tried, or convicted.

The Attorney General shall include in the report under this subsection a description of the process and the information used to de-

termine the numbers for each of paragraphs (1) through (5).”

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Rhode Island (Mr. CICILLINE) and the gentleman from Ohio (Mr. JORDAN) each will control 20 minutes.

The Chair recognizes the gentleman from Rhode Island.

GENERAL LEAVE

Mr. CICILLINE. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 7072.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. CICILLINE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as a proud cosponsor, I rise in strong support of H.R. 7072, the NDO Fairness Act, crucial bipartisan surveillance reform legislation that recently passed out of the Judiciary Committee on a voice vote.

This legislation would establish important guardrails for when the government seeks to access someone's electronic communications without that person's knowledge. Under current law, after the government obtains a court's permission to search the contents of a person's electronic communications, prosecutors must then compel the email service provider to produce the relevant data. To avoid having the service provider turn around and tell its customer about the search, the government can also ask the court to grant a nondisclosure order, colloquially referred to as a secrecy or gag order.

Right now, there is no time limit to these orders. There is no standard to meet. All the government needs to do is cite one of five potential adverse results, with no showing that it is necessary, and the court may grant the request.

This bill requires the government to show and the courts to be convinced that the secrecy order is actually needed, rather than allowing both to treat this as a check-the-box activity. Gag orders would be granted for a much shorter period of time, with the opportunity for extensions only as necessary. When the orders expire or are no longer necessary, the government would need to provide to the customer the warrant, details regarding the search, and a copy of any information disclosed.

Prosecutors frequently seek secrecy orders in cases where there is clearly no need and in situations where the government alone benefits. Unlike when a physical search occurs and a person has the right to go to court to dispute the warrant, NDOs can keep the subject of the search in the dark until a court reverses the order. In the 21st century, Federal prosecutors no longer need to show up to your office. They just need to raid your virtual office secretly.

The NDO Fairness Act would do away with that rubber stamp by ensuring that courts apply a strict scrutiny standard to government requests with a written determination explaining their reasoning. By time-limiting nondisclosure orders, raising the standard of review, and ensuring that service providers have standing when they object, H.R. 7072 inserts transparency, reason, and balance into a system that for too long has been a free-for-all for government prosecutors simply by virtue of it being too easy to overuse.

If history and recent reporting has taught us anything, it is that we cannot trust the Department of Justice—under any administration—to police itself. It is imperative that the House of Representatives fulfill its role and ensure our laws are keeping pace with rapidly changing technology.

Madam Speaker, I thank Chairman NADLER and Congressman FITZGERALD for their leadership on this bill and our friends, Senator LEAHY and Senator LEE, for their leadership in the Senate.

Madam Speaker, I urge my colleagues to vote “yes” on the bill, and I reserve the balance of my time.

Mr. JORDAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the NDO Fairness Act is a significant step in addressing the government’s overreach and abuse of nondisclosure orders, also known as gag orders.

All too often, the government obtains a court order to secretly demand the communications of American citizens from third-party tech companies like Apple, Google, Microsoft, and Verizon. Through these orders, the government blocks these companies from alerting their customers or users that the government is looking through their emails and phone records. In other words, you don’t get to know.

The frequency with which the government uses these orders to demand information is shocking. One company received 2,400 to 3,500 orders every year between 2016 and 2021. That is 7 to 10 orders every day—every single day. Some of those orders do not contain an expiration. That means the government is authorized to spy on Americans’ private information indefinitely.

Think about that, Madam Speaker. You may never know that the government accessed and snooped on your most intimate information.

More astoundingly, these nondisclosure orders are often approved by a rubberstamp process for routine investigations without any real showing of the need for secrecy.

This bipartisan bill ensures that our rights enshrined in the Constitution are protected from government overreach. The bill requires courts to issue written decisions as to why orders are necessary. It sets a 60-day limit for such orders and allows providers to challenge unjustified orders in a court of law.

Madam Speaker, I reserve the balance of my time.

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Mr. CICILLINE. Madam Speaker, I have no further speakers. I reserve the balance of my time.

Mr. JORDAN. Madam Speaker, I urge a “yes” vote, and I yield back the balance of my time.

Mr. CICILLINE. Madam Speaker, I yield myself the balance of my time.

H.R. 7072 will insert due process protections into a system too often abused by Federal prosecutors.

Under the Stored Communications Act, the government often has no obligation to tell you that they have requested access to your email records. It can prohibit your service provider from informing you of the search, even if your contract with the provider requires such notice.

The NDO Fairness Act will require that the government show a need for a gag order. It installs commonsense protections to ensure that any such orders are time-limited and subject to scrutiny for renewal.

Madam Speaker, I encourage my colleagues to vote “yes” and pass this important legislation today, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. CICILLINE) that the House suspend the rules and pass the bill, H.R. 7072, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

21ST CENTURY PRESIDENT ACT

Mr. CICILLINE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3285) to amend gendered terms in Federal law relating to the President and the President’s spouse.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “21st Century President Act”.

SEC. 2. MODERNIZATION OF TERMS RELATING TO THE PRESIDENT AND THE SPOUSE OF A PRESIDENT.

Section 879(b)(1)(A) of title 18, United States Code, is amended by striking “the wife of a former President during his lifetime, the widow of a former President until her death or remarriage” and inserting “the spouse of a former President during a former President’s lifetime, the surviving spouse of a former President until the surviving spouse’s death or remarriage”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Rhode Island (Mr. CICILLINE) and the gentleman from Ohio (Mr. JORDAN) each will control 20 minutes.

The Chair recognizes the gentleman from Rhode Island.

GENERAL LEAVE

Mr. CICILLINE. Madam Speaker, I ask unanimous consent that all Mem-

bers have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 3285.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. CICILLINE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of H.R. 3285, the 21st Century President Act.

A century ago, women in this country had only barely won the right to vote. Today, we have the first female Vice President, a female Speaker of the House, and record numbers of women running for Federal office. Although we still have a long way to go both in equality and representation, our country’s government is growing closer to finally representing our Nation’s brilliant diversity.

Our laws must reflect the fact that a President and their spouse can be of any gender. That concept may have seemed impossible a few decades ago, but today it is, thankfully, a true and real possibility.

Currently, our criminal code defines a spouse in the “immediate family” of a President as “the wife of a former President during his lifetime” and “the widow of a former President until her death,” implying that the spouse must be female and the President must be male in order for a threat against a former President’s family to be treated as a crime.

This completely disregards the fact that a President may be female and the President’s spouse may not be. This does not reflect the progress we have made in this country.

I am proud to vote “yes” for this bill, which passed out of this Chamber by a voice vote last Congress, and I encourage all of my colleagues to vote for its passage to support equality in our highest branch.

Madam Speaker, I again thank my colleague and friend, Congressman POCAN, for introducing this bill and being such a strong advocate for it. I look forward to seeing it made law.

Madam Speaker, I reserve the balance of my time.

Mr. JORDAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the bill is simple. Under current law, it is a crime to issue threats against former Presidents’ immediate family and certain other persons.

Specifically, this bill replaces the words “wife” and “widow” with “spouse” and “surviving spouse.” Both major parties have had women run for President, and this change makes sense.

But while we are dedicating floor time to consider this minor technical change, President Biden’s inflation has hit a 40-year high; his border crisis has left our Nation woefully unsecure; and leftwing defund the police actions have